

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No.: 1:16MC22
	)	
FOR ALL OCCASIONS, LTD.,	)	
	)	
Respondent.	)	

**RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Pursuant to the May 18, 2016 Order to Show Cause, this matter came before the undersigned United States Magistrate Judge for Show Cause Hearing on June 27, 2016, and August 29, 2016, on the Petition of the United States of America, on behalf of the Internal Revenue Service (the “IRS”), under the authority of 26 U.S.C. §§ 7402(b) and 7604(a), to judicially enforce an IRS Summons issued to Respondent For All Occasions, Ltd., on July 29, 2015 (the “Summons”). At the Show Cause Hearing on June 27, 2016, and August 29, 2016, Assistant United States Attorney (“AUSA”) Nathan Strup and IRS Revenue Officer C.R. Smith appeared on behalf of Petitioner. Lawrence Highfill, who is the president of Respondent, was present.

In support of its request to judicially enforce the Summons, the United States tendered the March 4, 2016 Declaration (the “Smith Declaration”) of C.R. Smith, who is a duly-commissioned Revenue Officer of the IRS, employed in the Small Business/Self-Employed Division, South Atlantic Compliance Area, and was authorized to issue IRS

summonses pursuant to the authority contained in 26 U.S.C. § 7602, and Treasury Regulation 26 C.F.R. § 301.7602-1, and IRS Delegation Order No. 25-1 (as revised).

Upon the Petition of the United States of America and the Smith Declaration, this Court entered its May 18, 2016 Order to Show Cause, in which the Court found that the United States had made a *prima facie* showing that:

- 1) An investigation is being conducted by the IRS pursuant to a legitimate purpose; specifically that the Summons was issued for the legitimate purpose of investigating the federal tax liability of Respondent for the calendar years ending December 31, 2010, December 31, 2011, December 31, 2012, December 31, 2013, and December 31, 2014 and collecting any such liability, as set forth in the Smith Declaration;
  - 2) The inquiries made may be relevant to that purpose;
  - 3) The information sought is not already within the possession of the IRS;
- and,
- 4) The administrative steps required by the Internal Revenue Code have been substantially followed. See United State v. Powell, 379 U.S. 48, 57-58 (1964); Conner v. United States, 434 F.3d 676, 680 (4th Cir. 2006); Alphin v. United States, 809 F.2d 236, 238 (4th Cir. 1987).

Revenue Officer Smith personally served Respondent with copies of the Petition and Order to Show Cause by handing the copies to Lawrence Highfill, president of Respondent, on May 25, 2016. (See Docket Entry 3). Respondent did not file any response to the Petition.

At the Show Cause Hearing on June 27, 2016, AUSA Nathan Strup informed the Court of his discussion with Lawrence Highfill and the possibility of compliance with the Summons in the near future. The Court then instructed that the matter be reset for hearing on August 29, 2016, with that hearing to proceed should Respondent fail to comply with the Summons by August 15, 2016. On August 22, 2016, the Court's staff inquired whether Respondent had complied and AUSA Nathan Strup informed the Court Respondent had not complied, and therefore requested that the matter proceed on August 29, 2016.

At the Show Cause Hearing on August 29, 2016, AUSA Nathan Strup informed the Court that Respondent had not complied with the Summons and requested entry of an Order enforcing the Summons and directing Respondent to fully comply with the Summons by the end of September 2016.

There is no Department of Justice referral in effect with respect to Respondent under investigation, as that term is defined in 26 U.S.C. § 7602(d).

Based on these determinations, the undersigned recommends that the Petition be granted and Respondent be ordered to produce for examination the books, papers, records, and other data that are demanded by the Summons.

**IT IS THEREFORE RECOMMENDED** that the Petition (Docket Entry 1) be **GRANTED** and that an Order be entered compelling Respondent For All Occasions, Ltd. to obey and fully comply with the Summons by producing to Revenue Officer C.R. Smith, or any other person designated by the IRS, all books, papers, records, and other data that are demanded by the Summons and that are in its possession, custody, or

control, by September 30, 2016 (or such later date deemed appropriate based on the date the Court acts on this Recommendation) (the “Enforcement Order”).

Within 14 days of being served with this Recommendation, Respondent and/or Petitioner may file written objections with the Court and serve a copy of those objections on all parties. Such a document should be entitled “Objections to Recommendation of United States Magistrate Judge.” Any response to the Objections must be filed and served on all parties within 14 days after service of the Objections. Failure to file Objections within the specified time may waive the right of appeal of the Court’s Enforcement Order. See Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985).

**THE CLERK SHALL SERVE** this Recommendation by mailing copies to:

For All Occasions, Ltd.  
Lawrence Highfill, President  
207 Coachlight Trail  
Burlington, NC 27215

For All Occasions, Ltd.  
Lawrence Highfill, President  
3266 S. Church St.  
Burlington, NC 27215

/s/ L. Patrick Auld  
**L. Patrick Auld**  
**United States Magistrate Judge**

September 1, 2016